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Date: OCTOBER 3, 2005

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U.S. PATENT AND TRADEMARK OFFICE

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Client/Matter No.: DE 000079 (7790/387)

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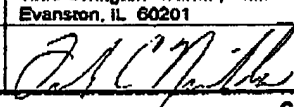
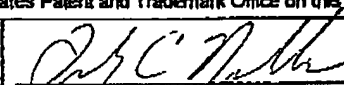
<b>TRANSMITTAL FORM</b>  <small>(to be used for all correspondence after initial filing)</small>	Attorney Docket No.	DE 000079 (7790/387)
	Application Number	09/855,577
	Filing Date	MAY 15, 2001
	First Named Inventor	CHRISTOPH HERMANN
	Group Art Unit	2681
	Examiner	KADING, JOSHUA A

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	Filing Date	MAY 15, 2001
	First Named Inventor	CHRISTOPH HERMANN
	Group Art Unit	2661
	Examiner	KADING, JOSHUA A.

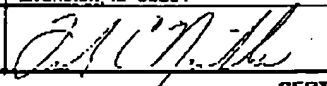
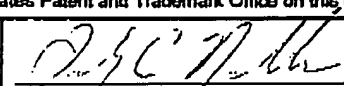
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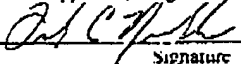
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**PATENT**  
**Case No. DE 000079**  
**(7790/387)**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re patent application of:	)	
	)	
CHRISTOPH HERMANN	)	
	)	Examiner: KADING, J. A.
Serial No.: 09/855,577	)	
	)	Group Art Unit: 2661
Filed: MAY 15, 2001	)	
	)	
For: WIRELESS NETWORK WITH	)	
CAPACITY MEASUREMENT	)	

**APPEAL BRIEF**

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Appellant herewith respectfully presents a Brief on Appeal as follows:

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1. REAL PARTY IN INTEREST

The real party in interest is the assignee of record U.S. Philips Corporation, a Delaware corporation having an office and a place of business at 1251 Avenue of the Americas, New York, NY 10020-1104.

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2. RELATED APPEALS AND INTERFERENCES

Appellant and the undersigned attorney are not aware of any other appeals or interferences which will directly affect or be directly affected by or having a bearing on the Board's decision in the pending appeal.

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3. STATUS OF CLAIMS

Claims 1-10 are currently pending in the present application, and are the claims on appeal. See, Claims Appendix.



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4. STATUS OF AMENDMENTS

Appellant filed an after final request for reconsideration under 37 C.F.R. §1.116 in response to a Final Office Action dated April 15, 2005. The request for reconsideration did not contain any amendments to claims 1-10.

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## 5. SUMMARY OF THE INVENTION

As illustrated in FIG. 1, a wireless network employs a radio network controller 1 and a plurality of assigned terminals 2-9 for exchanging useful data and control data. Each terminal 2-9 has one or more buffers for buffering data packets to be transmitted to radio network controller 1 via a contention channel and each terminal 2-9 further has a measuring device for measuring the occupancy level of its buffer(s). *See, U.S. Patent Application Serial No. 09/855,577* at page 3, lines 22-27 and at page 5, line 33 to page 6, line 9.

In operation, a terminal 2-9 transmits a signaling sequence (e.g., a Gold, Kasami or Golay sequence) to radio network controller 1 at a start time predefined by radio network controller 1 when an occupancy level of one or more buffer(s). In turn, radio network controller 1 correlates the signaling sequence and detects a pulse developed from the correlated signaling sequence. Thereafter, radio network controller 1 transmits an indication to the appropriate terminal 2-9 to inform that terminal 2-9 to transmit the data packets over a channel assigned only to that terminal 2-9. To this end, radio network controller 1 includes a matched filter for generating one or more pulses after a signaling sequence has been received and further includes a peak detector provided for detecting the peak on the output of the matched filter based on a certain detection window whose start time and duration are determined by the channel properties and the start time of the signaling sequence being detected. *See, U.S. Patent Application Serial No. 09/855,577* at page 6, line 24 to page 8, line 22.

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In response to the appropriate terminal 2-9 receiving the indication, that terminal 2-9 can transmit further information about the traffic load of the terminal 2-9 over the assigned channel after receipt of the indication and a changeover to the assigned channel.  
See, U.S. Patent Application Serial No. 09/855,577 at page 8, line 31 to page 9, line 4.

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6. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-10 stand finally rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,790,534 to *Kokko* in view of U.S. Patent No. 5,428,647 to *Rasky et al.*

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7. ARGUMENT

*Kokko and Rasky Combination.* As illustrated in FIG. 1, *Kokko* teaches an N number of terminals 12 wherein each terminal 12 is designed to transmit a reservation request over an associated backward channel CCH-b to a base station 14 whenever the number of packets in an associated buffer exceeds a threshold value or when a packet has been stored in the associated buffer for a period that exceeds a predetermined time threshold. Each terminal 12 defines its reservation requests to inform base station 14 of its capacity needs for the transmission of its buffered data packet(s). See, *Kokko* at column 7, lines 20-42.

- A careful review of *Kokko* reveals that *Kokko* fails to teach or suggest the
- transmission by a terminal 12 over the backward channel CCH-b of a reservation request at a start time predefined by base station 14 in view of the fact that the terminals of *Kokko* define the reservation requests and not base station 14 of *Kokko*. In fact, a base station 14 of *Kokko* could never be operated to predefine any of the reservation requests, because base station 14 would not have the information corresponding to the capacity needs for the transmissions of the buffered data packets of a terminal 12 prior to receiving an actual reservation request from a terminal 12.

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Furthermore, a review of *Kokko* reveals the fact that *Kokko* teaches the reservation request as an indication of an amount of resources needed to transmits data packets stored in one or more associated buffers whereby the reservation request is modulated with a signaling sequence by a terminal 12. See, *Kokko* at column 6, lines 11-45. A processing on the receiving end of the reservation request as modulated by the signaling sequence is accomplished by a demodulation of the modulated reservation request to thereby obtain the indication of an amount of resources needed to transmits data packets stored in one or more associated buffers of the terminal. Clearly, a processing on the receiving end of the modulated reservation request by a matched filter and peak detector does not provide any benefit to *Kokko* because one would not be able to obtain the indication of an amount of resources needed to transmits data packets stored in one or more associated buffers of the terminal. Thus, modifying a base station 14 of *Kokko* to correlate a reservation request and detecting a pulse/peak developed from a received and correlated reservation request as taught by *Rusky* has no operational utility for *Kokko*, because *Kokko* is premised on reading and analyzing the content of each reservation request from a terminal 12 to thereby manage the reservation requests from terminals 12 in view of a total capacity of a cell encompassing base station 14. See, *Kokko* at column 6, line 19 to column 8, line 7.

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**Obviousness.** To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. See, MPEP §2143.

The Appellant respectfully asserts *Kokku and Rasky* in combination fail to render obvious the following limitations of claims 1-10. The following headings indicate the various grouping of claims 1-10 for purposes of this appeal.

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**Claims 1-3 and 9-10.** The Appellant respectfully traverses the obviousness rejection of claims 1-3 and 8-10, because there is no motivation to modify *Kokko* in view of *Rusky* to render the following limitations of independent claims 1 and 8-10:

1. "in that a terminal (2 to 9), when an occupancy level of a buffer or various buffers is exceeded, is provided for sending a signaling sequence at a start time predefined by the radio network controller (1)", "in that the radio network controller (1) includes a device for correlating a signaling sequence sent by a terminal (2 to 9) and for detecting the pulse developed from a received and correlated signaling sequence" and "in that the radio network controller (1), after detecting a signaling sequence assigned to a terminal (2 to 9), is arranged for sending an indication to the terminal (2 to 9) to further transmit the data packets over a channel assigned only to the terminal" as recited in independent claim 1;



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2. "in that the radio network controller (1) includes a device for correlating a signaling sequence transmitted by a terminal (2 to 9) and for detecting the peak evolved from a received and correlated signaling sequence", "in that a signaling sequence transmitted at a certain time by a terminal (2 to 9) indicates that the occupancy level of the buffer or of various buffers in the respective terminal (2 to 9) has been exceeded", and "in that the radio network controller (1), after detecting a signaling sequence assigned to a terminal (2 to 9), is provided for sending an indication to the terminal (2 to 9) for the further transmission of the data packets over a channel exclusively assigned to the terminal (2 to 9)" as recited in independent claim 8;

3. "in that the terminal (2 to 9), when an occupancy level of a buffer or various buffers is exceeded, is provided for sending a signaling sequence at a start time predefined by the radio network controller (1)" and "in that the terminal (2 to 9) is provided for receiving an indication from the radio network controller (1) which detects the signaling sequence that a channel exclusively assigned to the terminal (2 to 9) can be used for the further transmission of the data packets" as recited in independent claim 9; and

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4. "in that a signaling sequence is transmitted by a terminal (2 to 9) at a start time respectively predefined by the radio network controller (1) after an occupancy level of one or more buffers is exceeded", "in that a signaling sequence transmitted and received by a terminal (2 to 9) is correlated in the radio network controller (1) and an ensuing peak is detected" and "in that an indication for the terminal (2 to 9) to use a channel exclusively assigned to the terminal (2 to 9) for the further transmission of the data packets is transmitted by the radio network controller (1) after the detection of a signaling sequence assigned to a terminal (2 to 9)" as recited in independent claim 10.

Withdrawal of the rejection of claims 1-3 and 8-10 under §103(a) as being unpatentable over *Kokko* in view of *Rusky* is therefore respectfully requested.

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**Claim 4.** The Appellant respectfully traverses the obviousness rejection of dependent claim 4, because there is no motivation to modify *Kokko* in view of *Rasky* to render "in that the radio network controller (1) includes a matched filter generating at least one pulse after a signaling sequence has been received and includes a peak detector and in that peak detector, in a certain detection window whose start time and duration are determined by the channel properties and the start time of a signaling sequence to be detected, is provided for detecting the peak on the output of the matched filter" as recited in dependent claim 4. Withdrawal of the rejection of claim 4 under §103(a) as being unpatentable over *Kokko* in view of *Rasky* is therefore respectfully requested.

**Claim 5.** The Appellant respectfully traverses the obviousness rejection of dependent claim 5, because there is no motivation to modify *Kokko* in view of *Rasky* to render "in that a terminal (2 to 9) is provided for sending a Gold, Kasami or Golay sequence as a signaling sequence at a certain start time" as recited in dependent claim 5. Withdrawal of the rejection of claim 5 under §103(a) as being unpatentable over *Kokko* in view of *Rasky* is therefore respectfully requested.

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**Claim 6.** The Appellant respectfully traverses the obviousness rejection of dependent claim 6, because there is no motivation to modify *Kokko* in view of *Rasky* to render "in that a terminal (2 to 9) is provided for sending a signaling sequence at a start time predefined by the radio network controller (1) when a sum of the occupancy levels of all the buffers exceed a predefined threshold" as recited in dependent claim 6. Withdrawal of the rejection of claim 6 under §103(a) as being unpatentable over *Kokko* in view of *Rasky* is therefore respectfully requested.

**Claim 7.** The Appellant respectfully traverses the obviousness rejection of dependent claim 7, because there is no motivation to modify *Kokko* in view of *Rasky* to render "in that a terminal (2 to 9) is provided for transmitting further information about the traffic load of the terminal (2 to 9) over the channel after receipt of the indication and a changeover to the assigned channel" as recited in dependent claim 7. Withdrawal of the rejection of claim 7 under §103(a) as being unpatentable over *Kokko* in view of *Rasky* is therefore respectfully requested.

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Dated: October 3, 2005

Respectfully submitted,

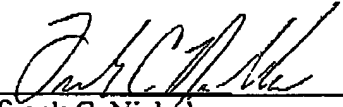
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### CLAIMS APPENDIX

1. A wireless network comprising a radio network controller (1) and a plurality of assigned terminals (2 to 9) for exchanging useful data and control data, which terminals respectively have a buffer for buffering data packets to be transmitted to the radio network controller (1) via a contention channel and a measuring device for measuring the occupancy level of at least one buffer, characterized

in that a terminal (2 to 9), when an occupancy level of a buffer or various buffers is exceeded, is provided for sending a signaling sequence at a start time predefined by the radio network controller (1),

in that the radio network controller (1) includes a device for correlating a signaling sequence sent by a terminal (2 to 9) and for detecting the pulse developed from a received and correlated signaling sequence, and

in that the radio network controller (1), after detecting a signaling sequence assigned to a terminal (2 to 9), is arranged for sending an indication to the terminal (2 to 9) to further transmit the data packets over a channel assigned only to the terminal.

2. A wireless network as claimed in claim 1, characterized in that the channel assigned to a terminal (2 to 9) is a dedicated channel.

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3. A wireless network as claimed in claim 1, characterized in that a terminal (2 to 9) is provided for measuring the occupancy level of the buffer or of various buffers in the layer for the radio link control (RCL layer).

4. A wireless network as claimed in claim 1, characterized in that the radio network controller (1) includes a matched filter generating at least one pulse after a signaling sequence has been received and includes a peak detector and in that peak detector, in a certain detection window whose start time and duration are determined by the channel properties and the start time of a signaling sequence to be detected, is provided for detecting the peak on the output of the matched filter.

5. A wireless network as claimed in claim 1, characterized in that a terminal (2 to 9) is provided for sending a Gold, Kasami or Golay sequence as a signaling sequence at a certain start time.

6. A wireless network as claimed in claim 1, characterized in that a terminal (2 to 9) is provided for sending a signaling sequence at a start time predefined by the radio network controller (1) when a sum of the occupancy levels of all the buffers exceed a predefined threshold.

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7. A wireless network as claimed in claim 1, characterized in that a terminal (2 to 9) is provided for transmitting further information about the traffic load of the terminal (2 to 9) over the channel after receipt of the indication and a changeover to the assigned channel.

8. A radio network controller (1) in a wireless network for exchanging useful data and control data comprising a plurality of assigned terminals (2 to 9), characterized in that the radio network controller (1) includes a device for correlating a signaling sequence transmitted by a terminal (2 to 9) and for detecting the peak evolved from a received and correlated signaling sequence,

in that a signaling sequence transmitted at a certain time by a terminal (2 to 9) indicates that the occupancy level of the buffer or of various buffers in the respective terminal (2 to 9) has been exceeded and

in that the radio network controller (1), after detecting a signaling sequence assigned to a terminal (2 to 9), is provided for sending an indication to the terminal (2 to 9) for the further transmission of the data packets over a channel exclusively assigned to the terminal (2 to 9).



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9. A terminal (2 to 9) in a wireless network of exchanging useful data and control data with at least one radio network controller (1) and further terminals, which terminal includes at least one buffer for buffering data packets to be transmitted to the radio network controller (1) over a contention channel and a measuring device for measuring the occupancy level of at least one buffer, characterized

in that the terminal (2 to 9), when an occupancy level of a buffer or various buffers is exceeded, is provided for sending a signaling sequence at a start time predefined by the radio network controller (1) and

in that the terminal (2 to 9) is provided for receiving an indication from the radio network controller (1) which detects the signaling sequence that a channel exclusively assigned to the terminal (2 to 9) can be used for the further transmission of the data packets.

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10. A method of exchanging useful data and control data in a wireless network with a radio network controller (1) and a plurality of assigned terminals (2 to 9) which respectively have at least one buffer for buffering data packets to be transmitted to the radio network controller (1) over a contention channel and a measuring device for measuring the occupancy level of at least one buffer, characterized

in that a signaling sequence is transmitted by a terminal (2 to 9) at a start time respectively predefined by the radio network controller (1) after an occupancy level of one or more buffers is exceeded,

in that a signaling sequence transmitted and received by a terminal (2 to 9) is correlated in the radio network controller (1) and an ensuing peak is detected and

in that an indication for the terminal (2 to 9) to use a channel exclusively assigned to the terminal (2 to 9) for the further transmission of the data packets is transmitted by the radio network controller (1) after the detection of a signaling sequence assigned to a terminal (2 to 9).

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EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.